

TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART U: COLLECTION AUTHORITY

Section 100.9000 General Income Tax Procedures (IITA Section 901)

- a) Collection procedure. The Illinois income tax system basically is one of self-assessment. In general, each person or taxpayer liable for tax is required to file a prescribed form of return showing the facts upon which tax liability may be determined and assessed; the taxpayer is required to compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay all or any part of the tax when due, the Director, after assessment, issues to each person liable for any unpaid portion thereof, a notice and demand for payment at the place and time stated in the notice. The income tax is principally collected through withholding at the source or by payments of estimated tax required by law to be filed by certain individual and corporate taxpayers. Neither withholding nor payment of estimated tax relieves a taxpayer from the duty of filing an income tax return otherwise required.
 - 1) Prior to January 1, 1994, IITA Section 1003(a) provides that interest at the rate of 9% per annum (or at such adjusted rate as is established under Section 6621(b) of the Internal Revenue Code) shall be paid on unpaid amounts of tax imposed by the Act from the due date to the date paid; however, subsection (e) thereunder provides that, if a notice and demand for payment of an amount due is issued, interest shall not be imposed for the period after the date of such issuance if such amount is paid within ten days.
 - 2) On and after January 1, 1994, IITA Section 1003(a) provides that interest shall be paid in the manner and at the rate prescribed in Section 3-2 of the UPIA for the period from such date to the date of payment of such amount. Section 3-2(c) of the UPIA provides that if notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of such notice and demand, interest on the amount so paid shall not be imposed for the period after the date of the notice and demand.
- b) Examination and determination of tax liability
 - 1) Filing and examination of return. After the income tax returns are filed with the Department, they are sorted, classified, and processed (which includes inspection of the return to verify the accuracy of the tax and supporting computations therein). Errors apparent in the return are corrected (see Section

100.9200(a)(2) below) and notification of the error and the corrections are sent to the taxpayer. Thereafter, many of these returns are selected for examination which may be conducted by correspondence, office audit, or field audit. If, after examination, the return is accepted as filed, the taxpayer is notified by appropriate "no change" letter or report. If, as a result of examination, adjustments are proposed increasing the amount of the tax liability shown on the return or (with or without a claim for refund) decreasing it, and the taxpayer agrees in whole or in part with such adjustments, he may be requested to execute Illinois Form IL-870, waiving the restrictions on assessment and collection, and enabling immediate assessment upon acceptance by the Department after appropriate review of the examiner's (Revenue Auditor's) report. If adjustments are proposed with which the taxpayer does not agree, he ordinarily is afforded certain administrative appeal rights as described below which, however, do not apply in any case where criminal prosecution is under consideration or, in the discretion of the Director, the state's interest thereby would be prejudiced. Nor is appropriate action otherwise precluded where the assessment or collection of the tax is in jeopardy (see Section 1102 of the Illinois Income Tax Act).

- 2) Office conference with Department auditor and his supervisor. A taxpayer initiates the administrative appeal rights adverted to in subsection (b)(1) above by requesting, after the Department has proposed adjustments, an office conference to be attended by either himself or his representative (or both), the auditor, and the auditor's supervisor or other designee; the request may be by telephone or in writing. Written objections to the adjustments proposed are not required. The objectives of the office conference are to provide taxpayers an opportunity by discussion and further consideration to reach an early agreement respecting disputed items arising from the examination and to assure to the extent possible that all available pertinent facts, contentions, and viewpoints are included in the file and taken into account in the formulation of recommendations. Further objectives are to insure that the Act provisions as interpreted by regulations and rulings are properly applied and that the recommendations are consistent with any Department positions thereunder, as well as to provide a full explanation to the taxpayer and to reflect in the case file the findings and conclusions reached and the reasons therefor. If as a result of the office conference adjustments are proposed with which the taxpayer agrees in whole or part, he again ordinarily will be requested to execute the aforementioned Form IL-870 subject to the Department's review and acceptance; see Section 100.9220(a) for the effect such execution has on the running of interest.
- 3) Audit Review; Issuance of Notice of Deficiency. If, after the office conference, the taxpayer does not agree with the proposed adjustments, the administrative case file will then be submitted to the Department's audit review staff for technical and arithmetic review. After such review, the Audit Review staff will issue a Notice of Deficiency pursuant to IITA 904(c) for any unagreed or disputed amounts. Notices of Deficiency, although to be prepared and issued by Audit Review, due to being in the nature of pleadings, shall be subject to review before issuance by the Income Tax Legal Division.

- c) Protest Procedures. Pursuant to IITA Sections 904(d) and 908(a) a taxpayer may protest the Notice of Deficiency by requesting a hearing before the Department. The taxpayer has 60 days (150 days if the taxpayer is outside the United States) after the issuance of a Notice of Deficiency to submit a proper protest to the Audit Review Division. Failure to properly protest the Notice of Deficiency within the 60 (150) day period results in the automatic assessment of the tax, and penalty shown therein. See 86 Ill. Adm. Code 200.120 for protest requirements. Upon receiving a timely protest to the adjustments proposed in the examiner's report, the administrative case file will be forwarded to the Department's Income Tax Legal Division.
- d) Hearings. Department Hearings shall be conducted in accordance with the regulations provided at 86 Ill. Adm. Code 200, "Practice and Procedure for Hearings Before the Illinois Department of Revenue".

(Source: Amended at 25 Ill. Reg. 4929, effective March 23, 2001)